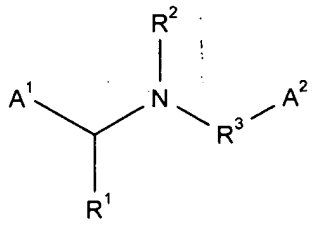
REMARKS/ARGUMENT

This amendment responds to the Office Action of April 2, 2008.

Claims 1 and 13-17 are pending in the application with claims 1 and 13 having been currently amended and claims 2-12 and 18-20 canceled. Support for the amendments to claims 1 and 13 appears in Examples 1 and 2 and in paragraph [0043] of Published U.S. Application No. 2006/0293369.

1 and 12-17 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Moloney et al. (U.S. Patent No. 6,503,933) and The Agrochemicals Handbook, A0090/Aug 91.

Moloney et al. disclose compounds of formula (I) and salts thereof as phytopathogenic fungicides wherein A^1 is substituted 2-pyridyl; A^2 is optionally substituted phenyl; R^3 is -(C=O)-, $-SO_2-$ or -(C=S)-; R^1 is hydrogen, optionally substituted alkyl or acyl; and R^2 is hydrogen or optionally substituted alkyl:



It is understood that the Examiner has cited The Agrochemicals Handbook to show that the compound chlorothalonil is a known fungicide. This has been acknowledged by the present inventors in published paragraph [0015] of the present application.

It is understood to be the Examiner's position that Compound (I) is a known fungicide and chlorothalonil is a known fungicide and, thus, it would be obvious to use them in combination. Applicants have acknowledged that these compounds, individually, are known fungicides.

Applicants acknowledge that compounds of the pyridylmethylbenzamide type with fungicidal action, which make it possible to prevent the growth and the development of phytopathogenic fungi which attack or are capable of attacking crops, are known and that chlorothalonil is also a known fungicide. However, it is the Applicants' position that they have discovered a combination that clearly exhibits synergism and is neither disclosed nor suggested by the cited art. They have demonstrated this synergism for this combination in Examples 1 and 2 (see, in particular, Tables 3 and 4), using means for determining synergism that is accepted in the art, i.e., the Colby formula, which was published in the journal Weeds, 1967, 15, pp. 20-22. The Examiner's attention is directed to U.S. Patent No. 6,753,339 in which the Colby method of determining synergism was also employed to the satisfaction of the Patent Office. Based on the teachings of the two cited references, a skilled artisan would have indeed expected a fungicide activity of mixtures of 2, 6-dichloro-N-{[3-chloro-5- (trifluoromethyl)-2- pyridinyl] methyl} benzamide and chlorothalonil, but would not have expected any synergy when associating these compounds, as evidenced by the examples of the present application. Unexpected results have been shown for the claimed combination and it logically follows from this that the combination cannot be obvious.

Applicants have discovered a novel and unobvious combination of fungicides that exhibits a synergistic effect that allows a reduction of the chemical substances spread into the environment and a reduction of the cost of the fungal treatment. Thus, the combination of the present invention enables a reduction in the doses of chemical products spread in the environment in order to control fungal attacks of crops, especially potatoes, vegetables, and lawns, in particular by reducing the doses of the products for application, and increases the number of antifungal products available to farmers for them to find among them the fungicidal agent best suited to their particular use. These advantages are neither taught nor disclosed by the cited art.

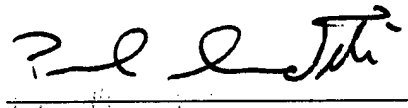
Further, the present claims are not simply directed to the combination of pyridylmethylbenzamide compounds and chlorothalonil, but, rather, to a combinations of one of these fungicides - 2, 6-dichloro-N-{[3-chloro-5- (trifluoromethyl)-2- pyridinyl] methyl} benzamide, also known as fluopicolide - in relatively narrow, and specifically defined, ratios. There is no mention of the claimed ratios in the art cited by the Examiner, or in the publications pointed out by the applicants in paragraphs [0002] and [0003] of the present application.

It is therefore requested that the rejection of claims 1 and 12-17 under 35 U.S.C. 103(a) as being unpatentable over Moloney et al. and The Agrochemicals Handbook be withdrawn.

In view of the amendments to claims 1 and 13, it is submitted that the Examiner's questions with regard to the ratios employed in the examples of the present specification and in the practice of the present invention are now moot.

In view of the foregoing, it is submitted that this application is now in condition for allowance and an early Office Action to that end is earnestly solicited.

Respectfully submitted,



Paul Grandinetti
Registration No. 30,754
OSTROLENK, FABER, GERB & SOFFEN, LLP
1180 Avenue of the Americas
New York, New York 10036-8403
Telephone (212) 382-0700